

Senate File 2310 - Introduced

SENATE FILE 2310
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO SSB 3198)

A BILL FOR

1 An Act creating a natural resources and outdoor recreation
2 trust fund to implement a proposed amendment to the
3 Constitution of the State of Iowa, and providing for
4 contingent implementation.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SUBCHAPTER I

GENERAL PROVISIONS

Section 1. NEW SECTION. 461.1 Title.

This Act shall be known and may be cited as the natural resources and outdoor recreation Act.

Sec. 2. NEW SECTION. 461.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Department*" means the department of agriculture and land stewardship, the department of natural resources, or the department of transportation.

2. "*Fiscal year*" means the state fiscal year effective as provided in section 3.12.

3. "*Initiative*" includes a program, project, practice, strategy, or plan established or administered by an agency that furthers a constitutional purpose as provided in section 461.3.

4. "*Recreational purpose*" includes hunting, trapping, angling, horseback riding, swimming, boating, camping, picnicking, hiking, bird watching, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

5. "*Trust fund*" means the natural resources and outdoor recreation trust fund created in section 461.3.

6. "*Trust fund moneys*" means moneys originating from the natural resources and outdoor recreation trust fund.

Sec. 3. NEW SECTION. 461.3 Constitutional purpose and implementation.

1. This chapter is created for the constitutional purposes of protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state.

2. This chapter is intended to implement Article VII, section 10, of the Constitution of the State of Iowa by establishing the natural resources and outdoor recreation

1 trust fund, accounts in the trust fund, and appropriating or
2 allocating trust fund moneys to support initiatives specified
3 in subchapter IV.

4 SUBCHAPTER II

5 PARTICIPATION

6 Sec. 4. NEW SECTION. 461.11 Departmental consultation.

7 1. When making decisions regarding the expenditure of
8 trust fund moneys affecting soil and water conservation, the
9 secretary of agriculture shall regularly consult with the
10 soil conservation committee established in section 161A.4.
11 When making decisions regarding the expenditure of trust fund
12 moneys affecting natural resources and outdoor recreation the
13 director of the department of natural resources shall regularly
14 consult with the natural resource commission established
15 pursuant to section 455A.5. When making decisions regarding
16 the expenditure of trust fund moneys affecting trails, the
17 department of transportation shall consult with the state
18 transportation commission as provided in chapter 307A.

19 2. The heads of each department receiving trust fund moneys
20 shall regularly meet and whenever practicable collaborate in
21 decision-making including by adopting rules, establishing
22 funding priorities, and determining when it is beneficial to
23 provide joint funding of initiatives.

24 SUBCHAPTER III

25 ADMINISTRATION

26 Sec. 5. NEW SECTION. 461.21 Audit.

27 1. The treasurer of state shall certify monthly that trust
28 fund moneys are allocated to the various funds and accounts as
29 provided in subchapter IV.

30 2. The auditor of state or a certified public accounting
31 firm appointed by the auditor of state shall conduct an annual
32 audit of the trust fund and all accounts and transactions of
33 the trust fund and accounts.

34 3. The auditor of state or the certified public accounting
35 firm appointed by the auditor as provided in subsection 2 shall

1 be paid from trust fund moneys without reducing the percentage
2 of trust fund moneys distributed to any one account established
3 pursuant to this chapter.

4 **Sec. 6. NEW SECTION. 461.22 Report.**

5 The three departments together with the treasurer of state
6 and the auditor of state shall jointly prepare and submit to
7 the governor and the general assembly not later than January
8 15 of each year a complete report in an electronic format
9 detailing all of the following:

10 1. A description of public hearings and meetings required
11 to be conducted pursuant to subchapter II, any results that
12 impacted upon departmental decision-making, and a plan for
13 conducting public hearings and meetings in the following year.

14 2. The receipts and expenditures of the trust fund and its
15 accounts, a summary of initiatives supported by trust fund
16 moneys, the results of those expenditures, any performance
17 goals or measurements, and plans for future short-term or
18 long-term expenditures.

19 3. Recommendations to the general assembly, including
20 legislation proposed by one or more of the departments.

21 **Sec. 7. NEW SECTION. 461.23 Rules.**

22 The treasurer of state, the auditor of state, the
23 department of revenue, and the department of agriculture and
24 land stewardship, the department of natural resources, and
25 department of transportation shall adopt rules separately or
26 jointly as necessary in order to implement and administer this
27 chapter.

28 SUBCHAPTER IV

29 NATURAL RESOURCES AND OUTDOOR RECREATION TRUST FUND
30 AND DISTRIBUTIONS TO SUPPORT DEDICATED PURPOSES

31 **Sec. 8. NEW SECTION. 461.31 Natural resources and outdoor**
32 **recreation trust fund — creation.**

33 A natural resources and outdoor recreation trust fund is
34 created within the state treasury.

35 1. The trust fund shall be composed of moneys required to

1 be credited to the trust fund by law and moneys accepted by
2 a department for placement in an account established in this
3 subchapter and from any source.

4 2. Trust fund moneys are exclusively appropriated by law
5 to carry out the constitutional purposes provided in section
6 461.3.

7 3. Trust fund moneys shall supplement and not replace
8 moneys appropriated by the general assembly to support the
9 constitutional purposes provided in section 461.3.

10 4. Trust fund moneys shall only be used to support voluntary
11 initiatives and shall not be used for regulatory efforts,
12 enforcement actions, or litigation.

13 5. In administering a trust fund account, a department
14 may contract, sue and be sued, and authorize payment for
15 costs, fees, commissions, and other reasonable expenses from
16 the account. However, a department shall not in any manner
17 directly or indirectly pledge the credit of this state.

18 6. Notwithstanding section 8.33, any unexpended balance in
19 the trust fund or in an account created within the trust fund
20 at the end of each fiscal year shall be retained in the trust
21 fund or the respective account. Notwithstanding section 12C.7,
22 subsection 2, interest or earnings on investments or time
23 deposits of the moneys in the trust fund and its respective
24 accounts shall be credited to the trust fund and its respective
25 accounts. The recapture of awards originating from an account
26 and other repayments to an account shall be retained in that
27 account.

28 Sec. 9. NEW SECTION. 461.32 Natural resources account
29 — allocations.

30 A natural resources account is created in the trust fund.
31 Twenty-three percent of the moneys credited to the trust fund
32 shall be allocated to the account.

33 1. The account shall be used by the department of natural
34 resources to support all of the following initiatives:

35 a. The establishment, restoration, or enhancement of state

1 parks, state preserves, wildlife areas, wildlife habitats,
2 native prairies, and wetlands.

3 *b.* Wildlife diversity.

4 *c.* Recreational purposes.

5 *d.* Technical assistance and financial incentives to private
6 landowners to promote the management of forests, fisheries,
7 wetlands, and wildlife.

8 *e.* The improvement of water trails, rivers, and streams.

9 *f.* Education and outreach that provide instruction regarding
10 natural history and the outdoors. The subjects of such
11 instruction may relate to opportunities involving recreational
12 purposes, outdoor safety, and ethics.

13 *g.* State conservation law enforcement.

14 2. The department of natural resources shall to every extent
15 possible consider its comprehensive plan provided in section
16 456A.31 when making funding decisions.

17 Sec. 10. NEW SECTION. **461.33 Soil conservation and water**
18 **protection account — allocations.**

19 A soil conservation and water protection account is created
20 in the trust fund. Twenty percent of the moneys credited to
21 the trust fund shall be allocated to the account.

22 1. The account shall be used by the department of
23 agriculture and land stewardship to support all of the
24 following initiatives:

25 *a.* Soil conservation and watershed protection, including
26 by supporting the soil conservation division of the department
27 of agriculture and land stewardship and soil and water
28 conservation district commissioners. The department may
29 provide for the installation of conservation practices and
30 watershed protection improvements as provided in chapters 161A,
31 161C, 461A, 466, and 466A.

32 *b.* The conservation of highly erodible land. The department
33 of agriculture and land stewardship may execute contracts with
34 private landowners who agree to reserve such land only for uses
35 that prevent erosion in excess of the applicable soil loss

1 limits as established in section 161A.44.

2 *c.* Soil conservation or crop management practices used on
3 land producing biomass for biorefineries, including cellulosic
4 ethanol production.

5 2. The department of agriculture and land stewardship may
6 use the account to provide financial incentives or technical
7 assistance to landowners.

8 Sec. 11. NEW SECTION. **461.34 Watershed protection account**
9 **— allocations.**

10 A watershed protection account is created in the trust fund.
11 Fourteen percent of the moneys credited to the trust fund shall
12 be allocated to the account.

13 1. The account shall be used cooperatively by the department
14 of natural resources and the department of agriculture and land
15 stewardship to support all of the following initiatives:

16 *a.* Water resource projects administered by the department
17 of natural resources to preserve watersheds, including but not
18 limited to all of the following:

19 (1) Projects to protect, restore, or enhance water quality
20 in the state through the provision of financial assistance to
21 communities for impairment-based, locally directed watershed
22 projects. The department may use the account to support the
23 water resource restoration sponsor program as provided in
24 section 455B.199.

25 (2) Regional and community watershed assessment, planning,
26 and prioritization efforts, including as provided in chapter
27 466B.

28 *b.* Surface water protection projects and practices
29 administered by the department of agriculture and land
30 stewardship or the department of natural resources, including
31 but not limited to the installation of permanent vegetation
32 cover, filter strips, grass waterways, and riparian forest
33 buffers; dredging; and bank stabilization. The departments
34 of agriculture and land stewardship and natural resources
35 may use the account to support the conservation buffer strip

1 program provided in section 466.4 and the conservation reserve
2 enhancement program as provided in section 466.5.

3 2. The departments' decision to prioritize initiatives may
4 be based on the priority list of watersheds provided in section
5 456A.33A.

6 Sec. 12. NEW SECTION. 461.35 Iowa resources enhancement and
7 protection fund — allocation.

8 Thirteen percent of the moneys credited to the trust
9 fund shall be allocated to the Iowa resources enhancement
10 and protection fund created in section 455A.18 for further
11 allocation as provided in section 455A.19.

12 Sec. 13. NEW SECTION. 461.36 Local conservation partnership
13 account — allocations.

14 A local conservation partnership account is created in the
15 trust fund. Thirteen percent of the moneys credited to the
16 trust fund shall be allocated to the account.

17 1. The department of natural resources shall allocate
18 trust fund moneys in the account to local communities for the
19 following initiatives:

20 a. The maintenance and improvement of parks, preserves,
21 wildlife areas, wildlife habitats, native prairies, and
22 wetlands.

23 b. Wildlife diversity.

24 c. Recreational purposes.

25 d. The improvement of water trails, rivers, and streams.

26 e. Education and outreach programs and projects that provide
27 instruction regarding natural history and the outdoors. The
28 subjects of such instruction may relate to opportunities
29 involving recreational purposes, outdoor safety, and ethics.

30 f. Any other purpose described in section 350.1.

31 2. A local community may cooperate with the state or the
32 federal government to carry out the initiative. Two or more
33 local communities may form an entity if allowed under chapter
34 28E in order to carry out the initiative.

35 3. As used in this section, "local community" means a county

1 conservation board, a city, or a nongovernmental organization
2 operating on a nonprofit basis.

3 Sec. 14. NEW SECTION. **461.37 Trails account — allocations.**

4 A trails account is created in the trust fund. Ten percent
5 of the moneys credited to the trust fund shall be allocated to
6 the account.

7 1. The department of transportation and the department
8 of natural resources shall allocate moneys in the account to
9 support initiatives related to the design, establishment,
10 maintenance, improvement, and expansion of land trails. The
11 land trails may be for equestrian use, bicycles, walking,
12 hiking, nature study, or cross-country skiing.

13 2. The department of natural resources may use the account
14 to support the design, establishment, maintenance, improvement,
15 and expansion of water trails.

16 Sec. 15. NEW SECTION. **461.38 Lake restoration account —**
17 **allocations.**

18 A lake restoration account is created in the trust fund.
19 Seven percent of the moneys credited to the trust fund shall
20 be deposited to the account. The department of natural
21 resources shall use moneys in the account to support public
22 lake restoration initiatives as follows:

23 1. An initiative shall account for a lake's recreational,
24 environmental, aesthetic, ecological, and social value. It
25 must improve water quality.

26 2. The department's decision to prioritize an initiative
27 may be based on the department's lake restoration plan and
28 report as provided in section 456A.33B.

29 Sec. 16. CONTINGENT IMPLEMENTATION. This Act shall be
30 implemented on January 1, 2011, if the joint resolution
31 proposing an amendment to the Constitution of the State of Iowa
32 to dedicate a portion of state revenue from the tax imposed on
33 certain retail sales of tangible personal property and services
34 for the benefit of the state's natural resources, as passed for
35 the second time by the general assembly as provided in 2009

1 Iowa Acts, chapter 185, and submitted to the people of the
2 State of Iowa at the general election in November 2010, in the
3 manner required by the Constitution of the State of Iowa and
4 the laws of this state, is ratified.

5 EXPLANATION

6 BACKGROUND. In 2008, the 82nd General Assembly passed
7 Senate Joint Resolution 2002 and in 2009 the 83rd General
8 Assembly passed House Joint Resolution 1 proposing an amendment
9 to the Constitution of the State of Iowa to dedicate a portion
10 of state revenue from the tax imposed on certain retail sales
11 of tangible personal property and services for the benefit
12 of the state's natural resources. The resolution creates a
13 natural resources and outdoor recreation trust fund within the
14 state treasury and not within the general fund of the state.
15 Moneys in the fund cannot be used for any purpose other than
16 protecting and enhancing water quality and natural areas in
17 this state including parks, trails, and fish and wildlife
18 habitat, and conserving agricultural soils in this state. No
19 revenue is credited to the fund until the sales and use tax
20 rate is increased. Whenever the sales tax is increased, the
21 amount generated by the increase is credited to the fund. If
22 approved by a majority of Iowa voters, the constitution of
23 the state is amended effective as of the date of the general
24 election.

25 GENERAL. The bill creates a new Code chapter referred to
26 as the natural resources and outdoor recreation Act. The bill
27 provides that its purpose is to implement the constitutional
28 purposes of protecting and enhancing water quality and natural
29 areas in this state including parks, trails, and fish and
30 wildlife habitat, and conserving agricultural soils in this
31 state. The fund is administered by the treasurer of state
32 and provides for distributions to support various initiatives
33 to be carried out by the department of natural resources,
34 the department of agriculture and land stewardship, and
35 the department of transportation. An initiative includes a

1 program, project, practice, strategy, or plan established
2 or administered by an agency that furthers a constitutional
3 purpose.

4 PARTICIPATION. The bill requires the heads of the three
5 departments who make decisions regarding the expenditure
6 of trust fund moneys to consult with bodies that oversee
7 policies concerned with natural resources. The director of
8 the department of natural resources must consult with the
9 natural resource commission, the secretary of agriculture must
10 consult with the state soil conservation committee, and the
11 director of the department of transportation must consult with
12 the state transportation commission. The heads of the three
13 departments must regularly meet together and collaborate when
14 making decisions.

15 ADMINISTRATION. The bill requires annual audits by the
16 auditor of state or a private accounting firm. Finally, the
17 three departments together with the treasurer of state and
18 auditor of state must submit an annual report to the governor
19 detailing the management of the trust fund, decision-making,
20 and the results of expenditures from the trust fund. The bill
21 requires those agencies to adopt rules necessary to carry out
22 their responsibilities.

23 TRUST FUND ESTABLISHED. The bill creates the trust
24 fund, provides that moneys may be credited to the fund as
25 provided by law or accepted by a decision-making department
26 for placement in an account under its control. According to
27 the bill, trust fund moneys shall supplement and not replace
28 moneys appropriated by the general assembly to support the
29 constitutional purposes, must be used to support voluntary
30 initiatives, and must not be used for regulatory efforts,
31 enforcement actions, or litigation. Moneys in a fund or
32 account remain in the fund or account until expended and retain
33 all earnings.

34 TRUST FUND ALLOCATIONS — NATURAL RESOURCES ACCOUNT. The
35 bill creates a natural resources account and provides for the

1 allocation of trust fund moneys to the account for use by the
2 department of natural resources to support initiatives related
3 to state lands, wildlife, recreation, natural habitat, rivers
4 and streams, education, and state conservation law enforcement.

5 SOIL CONSERVATION AND WATER PROTECTION ACCOUNT. The bill
6 creates a soil conservation and water protection account and
7 provides for the allocation of trust fund moneys into the
8 account for use by the department of agriculture and land
9 stewardship to support initiatives related to soil conservation
10 and watershed protection to support the department's soil
11 conservation division and soil and water conservation
12 district commissioners. The department may also provide for
13 the conservation of highly erodible land and provide for
14 soil conservation or crop management practices used on land
15 producing biomass for biorefineries.

16 WATERSHED PROTECTION ACCOUNT. The bill creates a watershed
17 protection account and provides for the allocation of trust
18 fund moneys into the account for use by the department of
19 natural resources and the department of agriculture and land
20 stewardship to support initiatives related to water resource
21 initiatives, including for the protection, restoration, or
22 enhancement of water quality in the state, and the installation
23 of vegetation as soil or pollution barriers.

24 IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND. The bill
25 provides for the allocation of trust fund moneys to the Iowa
26 resources enhancement and protection fund for allocations as
27 provided by law.

28 LOCAL CONSERVATION PARTNERSHIP ACCOUNT. The bill creates
29 a local conservation partnership account and provides for
30 the allocation of trust fund moneys into the account for use
31 by the department of natural resources to support community
32 initiatives, including for parks, preserves, wildlife areas,
33 wildlife habitats, native prairies, and wetlands; wildlife
34 diversity; recreation; the improvement of water trails, rivers,
35 and streams; and education and outreach. A local community

1 is limited to a county conservation board, a city, or a
2 nongovernmental organization operating on a nonprofit basis; or
3 a city or county allowed to organize under a Code chapter 28E
4 agreement.

5 TRAILS ACCOUNT. The bill creates a trails account and
6 provides for the allocation of trust fund moneys into the
7 account for use by the department of transportation and
8 the department of natural resources to support the design,
9 establishment, maintenance, improvement, and expansion of land
10 trails and water trails.

11 LAKE RESTORATION ACCOUNT. The bill creates a lake
12 restoration account and provides for the allocation of trust
13 fund moneys into the account for use by the department of
14 natural resources to support initiatives related to lake
15 restoration taking into account a lake's recreational,
16 environmental, aesthetic, ecological, and social value.

17 CONTINGENT IMPLEMENTATION. The bill is to be implemented
18 on January 1, 2011, if the joint resolution proposing the
19 amendment to the Constitution of the State of Iowa is ratified.